

A corporation organized for the purpose of promoting and conducting home shows, the net earnings of which inures to the benefit of a county recreational board in the form of rent for the use of its premises, is not exempt from Federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

Advice has been requested whether a corporation is entitled to exemption from Federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1954, under the circumstances set forth below.

The corporation in the instant case was organized for the purpose of promoting and conducting an annual home show. The show consists of exhibitors' booths which are rented to manufacturing, mercantile, and building supply organizations. The show is conducted on premises which are under the jurisdiction of a county recreation board. An admission fee is charged the general public for attending the show. All of the net income realized, minus a reserve for making preliminary plans and starting the show for the following year, is turned over to the county recreation board to be used for the purpose of operating and maintaining its playgrounds and recreational facilities. Payments to the board vary with the amount of profit made by each show and are received as rental for the use of its premises.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations which are exempt from Federal income tax under section 501(a) of the Code and reads, in part, as follows:

(3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

In order to qualify for exemption under the above cited provision of the law, an organization must be both organized and operated exclusively for one or more of the purposes specified therein. Where an organization's only activity is that of conducting a business which is ordinarily carried on for profit, it is not operated for charitable or any other purpose specified in section 501(c)(3), notwithstanding the fact that all of its profits are payable to a public body or corporate instrumentality for exclusively public purposes. See section 502 of the Code. This is true whether the payments are made in the form of rent or

as direct contributions.

In view of the foregoing, it is held that a corporation organized for the purpose of promoting and conducting home shows, the net earnings of which inure to the benefit of a county recreational board in the form of rent for the use of its premises, is not exempt from Federal income taxation under section 501(c) (3) of the Internal Revenue Code of 1954.